

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JULY 15, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of July 15, 2009, was called to order by Mayor Hansen at 6:15 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, Deputy City Attorney Magdich, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Threatened Litigation: Government Code §54956.9(b); One Application; Potential Workers Compensation Claim by Michael Gold against City of Lodi (DOI: 11/3/07)
- b) Actual Litigation: Government Code §54956.9; One Application; Lance Hayden v. City of Lodi; WCAB #STK 214337 (3/10/08)
- c) Actual Litigation: Government Code §54956.9; One Application; Tim Bogetti v. City of Lodi, WCAB Case Number STK 0208706 (9/14/04)
- d) Actual Litigation: Government Code §54956.9; Four Applications; John Gail v. City of Lodi, WCAB Case Numbers STK 183128, STK 185784, STK 185786, and STK 183181 (CT 7/18/02)

C-3 Adjourn to Closed Session

At 6:15 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:44 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:01 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only.

In regard to Item C-2 (b), direction was given.

In regard to Items C-2 (c) and C-2 (d), settlement authority was given.

A. Call to Order / Roll call

The Regular City Council meeting of July 15, 2009, was called to order by Mayor Hansen at 7:01 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian,

Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, Deputy City Attorney Magdich, and City Clerk Johl

B. Invocation - Barbara Taylor, Lodi Police Chaplain

C. Pledge of Allegiance

D. Presentations

D-1 Awards

a) Presentation of Firefighter of the Year 2008 Plaque to Fire Engineer Mike Woznick (FD)

Interim Fire Chief Kevin Donnelly presented the "Firefighter of the Year 2008" plaque to Fire Engineer Mike Woznick, after which Lindsay Reed, Field Representative for Assemblymember Alyson Huber, presented Mr. Woznick with a certificate on behalf of Ms. Huber.

D-2 Proclamations

a) Parks and Recreation Month (PR)

Mayor Hansen presented a proclamation to Recreation Commissioner David Akin proclaiming the month of July 2009 as "Parks and Recreation Month" in the City of Lodi.

D-3 Presentations

a) Presentation of Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting (CM)

Deputy City Manager Jordan Ayers presented the Government Finance Officers Association Certificate of Excellence in Financial Reporting to Supervising Accountant Cory Wadlow and Accountant II Odette Bondoc.

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Mayor Hansen made a motion, second by Council Member Mounce, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amounts of \$1,900,190.42 and \$2,299,978.84 (FIN)

Claims were approved in the amount of \$1,900,190.42 and \$2,299,978.84.

E-2 Approve Minutes (CLK)

The minutes of June 16, 2009 (Shirtsleeve Session), June 17, 2009 (Regular Meeting), June 17,

2009 (Special Meeting), June 23, 2009 (Shirtsleeve Session), June 30, 2009 (Shirtsleeve Session), July 1, 2009 (Regular Meeting), and July 7, 2009 (Shirtsleeve Session) were approved as written.

- E-3 Adopt Resolution Rejecting all Bids and Authorizing Advertisement for Bids for the Annual Tree Trimming Contract (Power Line Clearing) for Electric Utility Department (\$375,000) (EUD)

Adopted Resolution No. 2009-92 rejecting all bids and authorizing advertisement for bids for the annual tree trimming contract (power line clearing) for Electric Utility Department in the amount of \$375,000.

- E-4 Authorize Lodi Police Department to Accept Donation of 2001 Ford F-150 Van from Ford Construction Company, Inc., of Lodi (PD)

Authorized the Lodi Police Department to accept donation of 2001 Ford F-150 van from Ford Construction Company, Inc., of Lodi.

- E-5 Adopt Resolution Awarding Contract for Grape Bowl Americans with Disabilities Act Construction Project to ICE Builders, Inc., of Rancho Cordova (\$283,039), and Appropriate Funds as Recommended (PW)

Adopted Resolution No. 2009-93 awarding the contract for Grape Bowl Americans with Disabilities Act Construction Project to ICE Builders, Inc., of Rancho Cordova, in the amount of \$283,039, and appropriating funds as recommended.

- E-6 Adopt Resolution Awarding Contract for Asphalt Materials for Fiscal Year 2009-10 to Granite Construction Company, of Stockton (\$28,791) (PW)

Adopted Resolution No. 2009-94 awarding the contract for Asphalt Materials for Fiscal Year 2009-10 to Granite Construction Company, of Stockton, in the amount of \$28,791.

- E-7 Accept Improvements under Contract for School Street and Spruce Street Wastewater Pipe Improvement Project (PW)

Accepted the improvements under the contract for School Street and Spruce Street Wastewater Pipe Improvement Project.

- E-8 Accept Improvements under Contract for Site Improvements at Lodi Lake Park, 1101 West Turner Road (PR)

Accepted the improvements under the contract for site improvements at Lodi Lake Park, 1101 West Turner Road.

- E-9 Approve Grant Funding for 2009-10 as Submitted by the Lodi Arts Commission (COM)

This item was pulled for further discussion by Mayor Hansen.

In response to Mayor Hansen, Arts Commissioner Laura Heinitz stated that, as part of the grant request, the applicant must show growth in the program. Ms. Heinitz stated the grant to the Lodi Community Band was decreased in light of the program generally remaining unchanged and the effort to spread out the overall funding across more groups. She stated the grant allocation process includes meeting the requirements of a scoring sheet.

In response to Council Member Hitchcock, Ms. Heinitz stated this is the first time the Commission has given a grant to the Pow Wow group and the funding may help the group kick start its program.

In response to Council Member Johnson, Ms. Heinitz stated the Lodi Community Band is one of the few groups that is taking the grant workshop in an effort to obtain supplemental grants.

Mayor Hansen made a motion, second by Council Member Mounce, to approve grant funding for 2009-10 as submitted by the Lodi Arts Commission.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-10 Approve Proposed Expenditure Program for Lodi's Share of the 2009 Edward Byrne Memorial Justice Assistance Grant (PD)

Approved the proposed expenditure program for Lodi's share of the 2009 Edward Byrne Memorial Justice Assistance Grant.

E-11 Adopt Resolution Amending the City of Lodi Drug and Alcohol Testing Policy and Drug and Alcohol Testing Procedure in Accordance with the Federal Transit Administration Drug and Alcohol Program Requirements (CM)

Adopted Resolution No. 2009-95 amending the City of Lodi Drug and Alcohol Testing Policy and Drug and Alcohol Testing Procedure in accordance with the Federal Transit Administration Drug and Alcohol Program requirements.

E-12 Adopt Resolution Authorizing Charter Service for the Listed Annual Events in Accordance with Charter Policy (PW)

Adopted Resolution No. 2009-96 authorizing charter service for the listed annual events in accordance with Charter Policy.

E-13 Adopt Resolution Establishing Policy Governing the Receipt and Distribution of Tickets and/or Passes (CA)

This item was pulled for further discussion by Council Member Hitchcock.

City Manager King and Deputy City Attorney Magdich provided an overview of the regulation as proscribed by the Fair Political Practices Commission, the rare occasion under which the proposed policy may apply, the public purpose required by the regulation for the policy, industry standards, and the consistency between the written policy and current practice.

Council Member Hitchcock made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-99 establishing policy governing the receipt and distribution of tickets and/or passes.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian,

Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-14 Consent to Continued Representation of City of Lodi and Northern California Power Agency - Lodi Meter Maintenance (CA)

Consented to continued representation of City of Lodi and Northern California Power Agency - Lodi Meter Maintenance.

E-15 Adopt Resolution Renewing Line of Credit with Farmers and Merchants Bank (\$3,000,000) at No Cost to the City of Lodi for the Lodi Electric Utility through June 30, 2010 (CM)

Adopted Resolution No. 2009-97 renewing the line of credit with Farmers and Merchants Bank in the amount of \$3,000,000 at no cost to the City of Lodi for the Lodi Electric Utility through June 30, 2010.

E-16 Adopt Resolution Setting the Pay Rate for the Interim Fire Chief (CM)

Adopted Resolution No. 2009-98 setting the pay rate for the Interim Fire Chief.

E-17 Set Public Hearing for August 5, 2009, to Consider the Reallocation of Available Community Development Block Grant and HOME Program Funding to Eden Housing, Inc. for an Affordable Senior Housing Project (CD)

Set public hearing for August 5, 2009, to consider the reallocation of available Community Development Block Grant and HOME Program funding to Eden Housing, Inc. for an affordable senior housing project.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Amy Blagg, representing the Lodi District Grape Growers Association, gave a brief presentation reviewing the Economic Impact Report for the wine and grape growing industry of the area.

Ms. Blagg provided a copy of the report, which was made a part of the record.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Johnson provided an overview of the City's BBB+ rating from Fitch and it's decision to not upgrade the rating based on the unstable condition of the State of California.

Mayor Hansen reported on his attendance at the project delivery meeting for San Joaquin Council of Governments where the specific topic of discussion was Highway 12. Mayor Hansen also stated he will be adjourning the meeting in memory of his brother Thomas William Hansen.

H. Comments by the City Manager on Non-Agenda Items

City Manager King provided a brief overview of the electric utility ratings from Fitch and Standard and Poor's, the decision by Fitch to not upgrade at the current time, and the overall effect to the City of the State budget difficulties.

I. Public Hearings

I-1 Public Hearing and Adopt Resolution Adjusting Wastewater Rates (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to adopt resolution adjusting wastewater rates.

City Manager King briefly introduced the subject matter of the wastewater rate adjustments.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the wastewater rate adjustments. Specific topics of the discussion included background information, actions since April 15, 2009, operating costs increasing faster than indexing factors, regulatory environment, rate adjustments, increasing debt service, monthly rates effective date of July 16, 2009, rate comparisons, and staff recommendation.

In response to Council Member Hitchcock, Mr. Sandelin stated he will need to come back before the Council for additional staffing to meet regulatory requirements as the additional staff referenced in the model are not currently existing. Mr. Sandelin also stated the approximate cost for six new positions is \$600,000 and it is anticipated that three positions will be added next year with the remainder being added the following year.

In response to Council Member Hitchcock, Mr. Sandelin stated the decreases are primarily due to regulatory requirements and the decrease in development. Council Member Hitchcock requested a copy of the report detailing the summary of all accounts.

In response to Council Member Mounce, Mr. Sandelin stated the model is created by the same consulting firm that also worked on the bond issuance.

Pamela Reed, representing the Regional Water Quality Control Board, provided an overview of the duties of the Regional Board, its operations, and its relationship to local government agencies and the State Board.

In response to Mayor Hansen, Ms. Reed stated fines have been levied against many cities for non-compliance in meeting requirements.

In response to Mayor Hansen, Ms. Reed provided an overview of the Clean Water Act and related activities that led to its passage. Ms. Reed stated that, while the program was originally federally funded, she understands that it falls on the communities now.

In response to Council Member Mounce, Ms. Reed stated she does relay the communities' frustrations to her Board and the State Board; although, she has found the efforts are most effective when they come from the community itself. She stated both federal and state agencies have a say in the preparation of the documents and orders.

Discussion ensued between Council Member Mounce, Council Member Hitchcock, and Ms. Reed regarding the hardship that the complex regulations and orders for compliance bring upon communities and the related frustrations.

In response to Council Member Johnson, Ms. Reed stated that some of the groundwater concerns are brought up by sports and fishing groups and discussion ensued regarding providing communities a break in light of the difficult economic times.

In response to Mayor Hansen, Ms. Reed stated the minimum-maximum penalties, otherwise known as MMPs, came about through the legislative process and not through the Boards.

In response to Council Member Hitchcock, Mr. Sandelin stated approximately \$2.45 million was collected for wastewater, the current balance in infrastructure is \$15 million, the recommendation is for all funds to go into the general account and be transferred out for projects, the most conventional model is to collect in one fund and move to subfunds as necessary, and activity continues with or without the particular line item. Discussion ensued between Council Member Hitchcock and Mr. Sandelin regarding transparency and the reasoning behind creating the infrastructure account line item.

In response to Council Member Mounce, Mr. Sandelin confirmed that the prior Public Works Director believed the infrastructure line item was to address various items. Discussion ensued between Council Member Mounce and Mr. Sandelin regarding the benefits and detriments of collecting in one line item for distribution to a variety of projects.

Mayor Hansen opened the public hearing to receive comment.

Cecil Kramer spoke in opposition to the proposed rate increase based on his concerns regarding the financial hardship on rate payers and the overall economy.

Bill Crow spoke in opposition to the proposed rate increase based on his concerns regarding the financial hardship on rate payers and the overall economy.

Eunice Friederich spoke in opposition to the proposed rate increase based on her concerns regarding the financial hardship on rate payers, the overall economy, and the question of equality in providing services.

Bill Fuhs spoke in opposition to the proposed rate increase based on his concerns regarding the financial hardship on rate payers and the overall economy.

Robin Rushing spoke in opposition to the proposed rate increase based on his concerns regarding the financial hardship on rate payers and the overall economy.

Mayor Hansen closed the public hearing after receiving no further comments.

City Clerk Johl reported that less than 1% of valid protests were received, the protest is therefore not upheld, and official certified results would be available through the City Clerk's office the following day.

In response to Mayor Hansen, Mr. Sandelin stated Proposition 218 requires that notification be provided to those residents and property owners who reside or have property within the City limits. Mr. Sandelin stated a Jahant Road resident would not have received notification unless he owned property within the City limits.

In response to Mayor Hansen, Mr. Sandelin stated that, while he is not sure of the exact number, he can say that there are maybe ten or less septic tanks within the City.

In response to Council Member Mounce, Mr. Sandelin stated he is not aware of any specific efforts to address rates for unoccupied homes.

In response to Council Member Johnson, Mr. King stated the CSA 31 area cannot be expanded unilaterally by the County without City input.

In response to Council Member Johnson, Mr. King stated it was a business decision to direct the surcharge for Flag City to the General Fund.

In response to Council Member Hitchcock, Mr. Sandelin stated the increase will also be applicable to the County.

In response to Mayor Hansen, Mr. Sandelin stated the water utility has three activities, the best water scenario is that it is operating in surplus, the worst water scenario is that it is operating at a deficit, and there is not enough information yet to determine how the PCE fund is doing.

In response to Council Member Mounce, Mr. Sandelin stated the water meters need to be installed by 2026.

In response to Mayor Hansen, Mr. Sandelin stated the model shows that as the City gets to year 2017-2018 there will be no increases, staff is not sure what additional requirements and upgrades will come in the future, and the confidence in not having future increases could be affected by additional State mandates and modifications.

In response to Council Member Hitchcock, Mr. Sandelin stated staff will be coming back to Council every year with an account and model status and a mathematical error caused the overestimation.

In response to Mayor Pro Tempore Katzakian, Mr. King stated Proposition 218 recognizes that enterprise funds stand alone and Proposition 218 limits transfers primarily for direct costs.

Council Member Mounce stated she will not be voting in favor of the proposed recommendation based on her concerns of accountability in removing the line item and that infrastructure replacement and improvement projects will not occur in the needed parts of town.

Council Member Hitchcock stated she will not be voting in favor of the proposed recommendation based on her concerns of accountability in removing the line item and because she believes there are other options to be explored. Council Member Hitchcock requested additional accounting information, including reports, on the subject matter.

Council Member Johnson made a motion, second by Mayor Hansen, to adopt Resolution No. 2009-100 adjusting the wastewater rates.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Hitchcock, and Council Member Mounce

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

a) Appointments to the Greater Lodi Area Youth Commission (Adult Advisors): David Molvik

and Joseph Price (CLK)

Mayor Hansen made a motion, second by Council Member Johnson, to make the following appointments:

Greater Lodi Area Youth Commission (Adult Advisors)

David Molvik, Term to expire May 31, 2010

Joseph Price, Term to expire May 31, 2011

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Council Direction Requested Regarding Response to the San Joaquin County Board of Supervisors for Armstrong Road Agricultural/Cluster Zoning Classification (CM) NOTE: This item is carried over from the meeting of 6/3/09

City Manager King provided a brief PowerPoint presentation regarding the Armstrong Road agricultural/cluster zoning subject matter. He specifically discussed the response of the Board of Supervisors to the concept, the history of the matter, intended outcome, additional background, vote by Board of Supervisors on April 21, 2009, City's proposed response, and potential next steps.

In response to Council Member Hitchcock, Interim Community Development Director Rad Bartlam stated he has reviewed the options and does not have a specific recommendation on how to proceed.

In response to Council Member Hitchcock, Mr. Bartlam stated the goal is not achieved by exercising an option to do nothing.

In response to Mayor Hansen, Mr. Bartlam confirmed the belief that, even if the City and property owners went through an additional process of acquiring property rights and other actions the Board has suggested, there still may not be enough votes on the Board to move the process forward.

In response to Council Member Hitchcock, Mr. Bartlam stated he does not see any sort of hybrid plan happening in the subject area because both the County and the Local Agency Formation Commission, who would need to be involved in the process, are not supportive of the concept.

In response to Mayor Pro Tempore Katzakian, Mr. King and Mr. Bartlam stated the General Plan needs to be completed and it would include an expanded area since it is a separate exercise.

Jerry Fry stated in his opinion it is best to let the property owners continue to work with the County and build coalitions within interested groups who may benefit from the process and overall effort.

In response to Mayor Hansen, Mr. Fry stated he believes that the County reaction is likely what it

is because of the negative history, the time spent over the years in trying to build consensus among the groups, and the perception of a potential Lodi separator.

In response to Council Member Hitchcock, Mr. Fry confirmed that the property owners will continue to pursue the matter, continue to build coalitions, and ask for the support of the City for the same. He confirmed that politics may play a role in the County's decision making process on this topic.

Bill Fuhs stated he is in support of the matter as recommended by the property owners as a farmer and a Common Cause member.

Osha Meserve, representing Citizens for Open Government, reviewed a variety of different options pertaining to cluster zoning in the specified area and submitted a letter stating the same for the record.

Ann Cerney, based on her recollection, provided an overview, history, and status of the subject matter of preserving an agricultural area between Stockton and Lodi. She urged the City Council to consider options suggested by Citizens for Open Government as outlined in the letter referenced by Osha Meserve.

The City Council provided general direction to staff to let the property owners, as they have recommended, pursue the matter further with the County and Board of Supervisors while building coalitions with interested parties and bringing the matter back to Council at an appropriate time in the future.

K-2 Provide Direction Regarding Lease Extension at 100 East Pine Street (Lodi Adopt-A-Child) (CM)

City Manager King provided a brief overview of the subject matter of extending the lease for the Lodi Adopt-A-Child facility and introduced Jerry Glenn as the President of Lodi Adopt-A-Child.

In response to Council Member Mounce, Mr. Glenn confirmed that there are trailers on the subject property, stating that the camper was donated and the Foundation is in the process of converting for utilization, a trailer is used to haul things, and a trailer is used for Christmas storage.

In response to Council Member Johnson, Mr. Glenn confirmed the Boy Scouts' use of the facility, stating the organization would be open for other non-profit uses although there has not been much interest to date. He stated the original lease was ten years.

In response to Council Member Mounce, Mr. Glenn stated he is not sure of what the room rental charge would be for uses by other groups.

Council Member Hitchcock disclosed that Jerry Glenn is her spouse and a financial interest does not exist.

In response to Council Member Hitchcock, Mr. Glenn stated they are working with the School District on the annual shopping spree for the children as well as having something year round to provide children with school clothing. Mr. King confirmed that any activity is allowed so long as it is consistent with the mission of Lodi Adopt-A-Child and he is not aware of any special restrictions that may exist with respect to utilizing the facility for children only.

In response to Council Member Hitchcock, Mr. Glenn stated the organization is working out the details of uniform distribution options with the School District.

Council Member Mounce made a motion, second by Council Member Johnson, to extend the lease for property located at 100 East Pine Street (Lodi Adopt-A-Child) as recommended.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-3 Notice of Cost to Grant Two Years Service Credit under Government Code Section 20903 (CM)

In response to Council Member Mounce, Mr. King confirmed that offering the two year service credit to others in the unit may help to bring back people subject to layoff pursuant to the budget. Mr. King stated the item is for notification purposes and formal action is not required.

K-4 Approve Legal Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$6,890) (CA)

Mayor Hansen made a motion, second by Council Member Mounce, to approve legal expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program Litigation in the amount of \$6,890, as detailed in the staff report.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: None

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned Thursday, July 16, 2009, at 12:03 a.m., in memory of Thomas William Hansen, Mayor Hansen's brother, who passed away recently.

ATTEST:

Randi Johl
City Clerk